

### **REMARKS/ARGUMENTS**

Claims 1-33 remain in the application. Claims 34-38 are cancelled by this response. Claims 8, 9, 14, 15, 22, 24 and 25 are amended to improve form of the language and to overcome rejections under 35 U.S.C. 112.

#### **A. Rejections under 35 U.S.C. 112.**

Claims 10-12 were rejected under 35 U.S.C. 112. This rejection is respectfully traversed. The specification discloses at page 5, lines 15-31 subject matter supporting claims 10-12. It is respectfully requested that the rejection be withdrawn.

The amendments to claims 8, 11, 13, 15, 24 and 26 are believed to overcome the rejections stated in the office action and it is respectfully requested that those rejections be withdrawn

#### **B. Rejections under 35 U.S.C. 102.**

Claims 8, 9, 14, 15, 22, 24 and 25 were rejected under 35 U.S.C. 102 based upon Dias et al. This rejection is respectfully traversed.

Claim 8 calls for, among other things, a web site implemented by an originating web server and a front-end server coupled by a communication channel. Dias et al. show servers 182 and 184, but do not show a front-end server. Caches 172, 174 and 176 are object caches, not servers. Dias et al. teach that the caches may be implemented by a router, but do not show or suggest that these may be implemented by a server. Claim 9 is allowable over Dias et al. for at least the same reasons as claim 8.

Similarly, independent claim 14 calls for a system for serving content having a first web server and a second web server. Elements 172 and 174 of Dias et al. identified in the office action are caches, not servers. At least these elements of claim 14 are not shown or suggested by Dias. Claim 15 is allowable over Dias et al. for at least the same reasons as claim 14.

Independent claim 22 calls for an origin web server and a first intermediary server having a cache therein. In contrast, Dias et al. show a server 182 or 184, and an object cache, but do not show or suggest that the object cache 172 is implemented by an intermediary server. For at least this reason claim 22 and claims 24 and 26 that depend from claim 22 are allowable over Dias et al.

Claims 22-25 and 27-33 were rejected under 35 U.S.C. 102 based upon Aggarwal et al. This rejection is respectfully traversed.

Independent claim 22 calls for an origin web server and a first intermediary server having a cache therein, wherein the first intermediary server is a web server. In contrast, Aggarwal et al. show servers 20, and an proxy servers 30, but do not show or suggest that proxy servers 30 are implemented by a web server. For at least this reason claim 23-25 and 27-33 are allowable over Aggarwal.

**C. Rejections under 35 U.S.C. 103.**

Claims 1, 2, 7 and 13 were rejected under 35 U.S.C. 103 based upon Dias et al. and Dujari. This rejection is respectfully traversed.

Independent claim 1 calls for, among other things, first and second web servers. Independent claim 13 calls for a method including serving a request from a first web server and a second tier web server. Dias et al. show servers 182 and 184, but do not show a second web server as called for in claim 1 and claim 13. Caches 172, 174 and 176 are object caches, not servers. Dias et al. teach that the caches may be implemented by a router, but do not show or suggest that these may be implemented by a web server. Dujari does not supply the deficiencies of the Dias et al. reference. Specifically, Dujari does not show or suggest the combination of first and second web servers as called for in claim 1 and claim 13.

Claims 2 and 7 that depend from claim 1 are not made obvious by the combination of Dias et al. and Dujari for at least the same reasons as claim 1.

Claims 17-21 37 were rejected under 35 U.S.C. 103 based upon Dias et al. and Gadish. This rejection is respectfully traversed.

Claims 17, 20 and 21 call for, in varying language, means for detecting a busy condition in the origin server and means responsive to the busy condition for serving a page generated by the gateway machine in response to the client request. As noted in the Office action, Dias et al. do not show or suggest detecting a busy condition in an origin server or serving a page generated by the gateway machine in response to the busy condition. Further, Dias et al. could not generate a page in the caches 172, 174, 176 because nothing in Dias et al. would suggest that the caches have the computational ability to generate a page.

Even if Dias et al. were combined with Gadish, one would have to modify Dias et al. to incorporate computational ability within the caches 172, 174 and 176 sufficient to generate a web page. Where is this taught? The brief statement in Gadish that the generator 20 could be a computer in communication with server 16 does not suggest that a non computational device such as the cache in Dias et al. could implement the software required for generator 20.

The extends the teaching of Gadish by stating that the intermediary device (applicants' words, not those of Gadish) *could be* located on a gateway computer. The patent laws require more than a "could be" standard to find obviousness. There must be sufficient motivation such that one would be compelled to make the combination suggested in the office action, not merely a hindsight conclusion that such a combination ~~could be~~ made. Moreover, the motivation to combine Dias et al. and Gadish does not appear in the references themselves, and would appear to be taken straight from applicants' own teaching. For at least these reasons claim 17 is not made obvious by the combined references. Claims 18-19 that depend from claim 17 are allowable for the same reasons as claim 17.

Claim 26 was rejected under 35 U.S.C. 103 based upon Aggarwal et al.. This rejection is respectfully traversed.

Claim 26 is believed to be allowable for at least the same reasons as claim 22 from which it depends.

Claims 3-6 were rejected under 35 U.S.C. 103 based upon Dias et al., Dujari, and further in view of Gadish. This rejection is respectfully traversed.

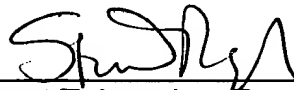
Claims 3-6 are distinct from Dias et al. for at least the same reasons as claim 1 from which they depend. Neither Dujari nor Gadish, alone or in combination, supply the deficiencies set out above with respect to the primary reference. Accordingly, it is respectfully requested that claims 3-6 be allowed.

**D. Conclusion.**

The references that were cited but not relied upon are no more relevant than the references that were relied upon. In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

This response is filed together with a request for a three month extension of time and the required fee of \$510.00. Any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,



Stuart T. Langley, Reg. No. 33,940  
Hogan & Hartson LLP  
One Tabor Center  
1200 17th Street, Suite 1500  
Denver, Colorado 80202  
(720) 406-5335 Tel  
(303) 899-7333 Fax

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